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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/802,703	03/17/2004	Ekawat Vitoorapakorn	602193-9US (A1437-343PO)	4819
570	7590	07/14/2005	EXAMINER	
AKIN GUMP STRAUSS HAUER & FELD L.L.P. ONE COMMERCE SQUARE 2005 MARKET STREET, SUITE 2200 PHILADELPHIA, PA 19103			KENNEDY, JOSHUA T	
			ART UNIT	PAPER NUMBER
			3679	

DATE MAILED: 07/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/802,703	<b>Applicant(s)</b> VITOORAPAKORN ET AL.	
	<b>Examiner</b> Joshua T. Kennedy	<b>Art Unit</b> 3679	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 June 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 June 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                    |                                                                             |
|----------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____                                                |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____                                                                        | 6) <input type="checkbox"/> Other: _____                                    |



### **DETAILED ACTION**

Claims 1-10 have been examined.

#### ***Priority***

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

#### ***Drawings***

The drawings are objected to because of improper cross-hatching of item 3 in Figure 2, 14.1, and 14.2. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and

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informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

Claim 3 is objected to because of the following informalities: On line 2 it refers to "an anti-loosing plastic". This should read "an --anti-loosening-- plastic". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5, and 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen (US 6,032,939) in view of Price (US 6,196,777).

In reference to the following claims, a recitation with respect to the manner in which an apparatus is intended to be employed does not impose any structural limitation upon the claimed apparatus which differentiates it from a prior art reference disclosing the structural limitations of the claim. In re Pearson, 494 F.2d 1399, 181 USPQ 641 (CCPA 1974); In re Yanush, 477 F.2d 958, 177

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USPQ 705 (CCPA 1973); In re Finsterwalder, 436 F.2d 1028, 168 USPQ 530 (CCPA 1971); In re Casey, 370 F.2d 576, 152 USPQ 235 (CCPA 1967); In re Otto, 312 F.2d 937, 136 USPQ 458 (CCPA 1963); Ex parte Masham, 2 USPQ2d 1647 (BdPatApp & Inter 1987).

Referring to Claim 1. Chen discloses a fastening assembly having a base member (12) for engaging a clamp member (11) through the bed liner hole, the base member is pressed by the clamp member with the bed liner wall and the bed rail in between, the base member having at least one extended direction control rod (113) at its back for insertion through the bed liner hole;

the clamp member having at least one hole (123) for insertion of the extended direction control rod of the base member therein, the hole of the clamp member can be moved along the extended direction control rod of the base member when the clamp member is assembled to the base member, the clamp member still be able to be inserted through the hole in the bed liner wall when the clamp member is engaged with the base member; and

a tie-down ring for attaching to the base member (Chen does not show this).

With respect to the location of the direction control rod. Since there are only 2 possible locations for the rod (on either the clamp or base member), it would have been obvious to one of ordinary skill in the art to provide the base member with the direction control rod (instead of the clamp member), thus

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providing the clamp portion with the corresponding hole (which is currently provided on the base member). The reversal of components in a prior art reference, where there is no disclosed significance to such reversal, is a design consideration within the skill of the art. In re Gazda, 219 F.2d 449, 104 USPQ 400 (CCPA 1955); In re Japikse, 181 F.2d 1019, 86 USPQ 70 (CCPA 1950).

Price teaches a tie-down ring for attaching to the base member for use as a vehicular cargo member allowing "the clamp to hold a strap, rope, belt of other kind of load securing tie" (Col 3, lines 48-9). It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the clamp device of Chen to have the tie down ring of Price because it would allow the clamp to hold a strap, rope, belt of other kind of load securing tie.

Referring to Claim 2. Chen in view of Price discloses a screw (Chen, 13) for securing the base member to the clamp member.

Referring to Claim 3. Chen in view of Price discloses an anti-loosening plastic (114) installed in an end of an internal threaded hole (115) of the clamp member.

Referring to Claim 4. Chen in view of Price discloses an elastic pad (14), which shall be placed between the base member and the bed liner wall in an assembled position.

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Referring to Claim 5. Chen in view of Price discloses a pad (Price, 69) for attaching to the clamp member, the pad being constructed of rubber, the pad shall be placed between the clamp member and the inner surface of the bed rail in an assembled position.

Referring to Claim 9. Chen in view of Price discloses a force absorbing rod (Chen, 123; Examiner considers the slot in base member as a force absorbing rod supporting the lower edge of the clamp member) extending therefrom to support the lower edge of the clamp member.

Referring to Claim 10. Chen in view of Price discloses a contact plate extending from both sides (113; Examiner considers the extended dovetail surface of the direction control rod to be a "contact plate").

Claims 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen in view of Price, further in view of Masters (US 5,314,964).

Chen in view of Price discloses a fastening assembly substantially as claimed but does not show a supporting plate for attaching to the inner surface of the bed rail having a double sided adhesive tape nor having spring clips capable of attaching the supporting plate to the inner surface of the bed rail.

Masters teaches an assembly having a double-sided adhesive tape (38) and a spring clip (16) capable of attaching a supporting plate (14) to the inner surface of the bed rail; the adhesive providing a seal and ensuring proper

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alignment between the plate and the member and the spring clip providing a second fastening means of the plate to the bed rail (column 2 lines 63-64, column 4 lines 30-34, Figure 2). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify an assembly as disclosed by Price to have an adhesive and clip to secure a supporting plate as taught by Masters in order to provide a seal and ensure proper alignment between the plate and the bed rail prior to tightening bolt.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US 4850633 to Emery cited to show a non-invasive fastener for a truck bed liner.

US 4953820 to Yoder cited to show an adjustable clamp for interactive use with the bed rail of a truck having a tie down ring

US 6039520 to Cheng cited to show a non-invasive fastener for interactive use with the bed rail of a truck having a tie down ring

US 5228739 to Love cited to show an adjustable clamp for interactive use with the bed rail of a truck having a supporting member on the inside of the bed rail.

US 6256844 to Wheatley cited to show a tie-down anchor assembly for interactive use with the bed rail of a truck.



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US 6350089 to Tekavec cited to show a tie-down anchor assembly for interactive use with the bed rail of a truck having an interior supporting plate.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joshua T. Kennedy whose telephone number is (571) 272-8297. The examiner can normally be reached on M-F: 7am - 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (571) 272-7087. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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7/8/05